



Seyfarth Shaw LLP

620 Eighth Avenue

New York, New York 10018

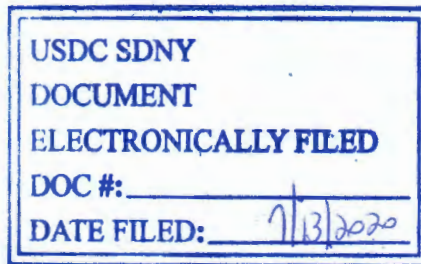
T (212) 218-5500

F (212) 218-5526

joslick@seyfarth.com

T (212) 218-6480

www.seyfarth.com



July 12, 2020

VIA ECF

The Honorable Colleen McMahon
United States District Judge
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

close case
conference of
Colleen McMahon
7/13/2020

Re: Kathleen Finch Schabhutl v. The Prudential Ins. Co. of Am., 20-cv-02345-CM

Dear Judge McMahon:

MEMO ENDORSE

We represent Defendants in this lawsuit. We write, with Plaintiff's consent, to request that the Court direct the Clerk of the Court to mark this matter as closed, and to cancel the conference scheduled for July 15, 2020.

In brief, on May 21, 2020, the parties submitted a fully-executed Stipulation of Dismissal, which dismissed this action, with prejudice, "pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii)," and "without costs or fees to any party." (See ECF #21.)

Fed. R. Civ. P. 41(a)(1)(A)(ii) empowers a plaintiff to dismiss an action, "without a court order," provided that the parties submit "a stipulation of dismissal signed by all parties who have appeared." That is precisely what happened here. Accordingly, this matter should have been dismissed and closed on May 21, 2020.

correct

For reasons that are not entirely clear to the parties, that did not happen. It appears that the Clerk of the Court may have believed that the Court's approval was necessary because the parties "added terms" regarding Plaintiff's receipt of long term disability benefits. If so, the Clerk of the Court was mistaken. Although the parties added some explanatory language to the stipulation, they still filed a Rule 41(a)(1)(A)(ii) stipulation, which should have resulted in a dismissal of the action without a "without a court order."

Accordingly, the parties request that the Court direct the Clerk of the Court to mark the matter as closed, and to cancel the scheduled July 15, 2020 conference.



The Honorable Colleen McMahon
July 12, 2020
Page 2

Respectfully submitted,

SEYFARTH SHAW LLP

/s/ Jacob Oslick

Jacob Oslick

cc: Jeffrey Delott (via ECF)